

UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

ESTATE OF STAR EUBANKS, :
Plaintiff :
: :
v. : CIVIL NO. 1:13-CV-1741
: :
HARRISBURG POLICE DEPARTMENT, :
Defendant. :
: :

O R D E R

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

We are considering the Report and Recommendation (“R & R”) of Magistrate Judge Schwab (Doc. 7), which recommends that we dismiss Plaintiff’s amended complaint (Doc. 5) for failure to state a claim upon which relief can be granted. On September 10, 2013, one day after the deadline for Objections, *pro se* Plaintiff Eubanks filed a document titled “Statement of Claim.” (Doc. 8). To the extent that this pleading was intended as an Objection to the magistrate’s report,¹ it is untimely,² and

1. While not titled as such, we are construing the document as an Objection to the R & R because Plaintiff loosely responds to some of the points raised in the magistrate’s report. See Higgs v. Att’y Gen. of the U.S., 655 F.3d 333, 339 (3d Cir. 2011) (“The obligation to liberally construe a *pro se* litigant’s pleadings is well-established.”) (citation omitted). We note that even if we were to grant Plaintiff leave to amend pursuant to FED. R. CIV. P. 15, and construe the pleading as a second amended complaint, it would likewise fail for the reasons discussed in the magistrate’s report.
2. Local Rule 72.3 requires that parties object to a magistrate judge’s proposed findings with fourteen (14) days of being served with a copy thereof.

does not change our analysis. Plaintiff merely recites the facts stated in her amended complaint, and again fails to state a cognizable federal claim. Accordingly, we agree with the magistrate's findings, and will dismiss the amended complaint with prejudice. (Doc. 5).

AND NOW, this 23rd day of September, 2013, upon consideration of the report and recommendation of the magistrate judge (Doc. 7), filed August 21, 2013, and the objections that were filed, (Doc. 8) and upon independent review of the record, it is ordered that:

1. The magistrate judge's report (Doc. 7) is adopted.
2. Plaintiff's amended complaint (Doc. 5) is DISMISSED with prejudice.
3. The Clerk of Court shall close this file.

/s/ William W. Caldwell
William W. Caldwell
United States District Judge